

MINUTES OF THE PLANNING COMMISSION MEETING OF MAY 16, 2007 AT 6:00 P.M. HELD IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER.

MEMBERS PRESENT: Tom Bowen, Jerri Harwell, Sue Ryser, Gordon Nicholl, Doug Haymore, Amy Rosevear

MEMBERS EXCUSED: JoAnn Frost, Jim Keane, Geoff Armstrong

STAFF PRESENT: Community Development Director Kevin Smith, Associate Planner Glenn Symes, City Attorney Shane Topham, Planning Coordinator Sherry McConkey

OTHERS PRESENT: Bob Good, Charley Moore, Kevin O'Connell

Chair Bowen called the meeting to order and explained that the Joseph Scott public hearing had been cancelled and would not be heard at this meeting.

1.0 PUBIC COMMENT

1.1 No public comment was given

2.0 PUBLIC HEARING – FLAG LOT – CABCO COTTONWOOD

2.1 Mr. Symes explained that this is a request by Adam Maher for a subdivision/flag lot of 0.73 acres of property located at 3509 E. Big Cottonwood Canyon Road. The lot has room for the flag lot to subdivide and meet the standards in the R-1-8 zone; however, they do not have the needed frontage. They only have 70 feet of land for each lot and they need 115 feet total. Mr. Symes explained the review process and Staff's decision to recommend approval.

2.2 Adam Maher 3273 E. Brunato Drive, made himself available for questions.

2.3 Chair Bowen opened the public hearing.

2.4 Doug Shelby, Walker Development, expressed concern that Lot #1 was not shown on the map as part of the review process.

Mr. Symes explained that the lot is too small to subdivide due to the size and topography. There can be no livable structure added to this lot.

Doug Shelby asked about the septic system and where it ties to the sewer line.

2.5 Chair Bowen closed the public hearing.

2.6 Paul Hartman came into the meeting stating that the doors were locked and he was unable to make comments during the public comment section.

2.7 Chair Bowen reopened the public hearing and Kevin Smith secured the door to enable the public to attend the meeting.

2.8 Paul Hartman stated they own the property that wraps around the subject property. He asked about the access, noting that Salt Lake County denied them the same access due to the traffic on Big Cottonwood Canyon Road.

2.9 Chair Bowen closed the public hearing.

2.10 Ms. Rosevear asked if the stem of the flag lot wide enough to be accessible to all traffic.

Mr. Symes stated yes it would be wide enough.

2.11 **MOTION:** Ms. Rosevear moved to approve the flag lot based on staff recommendation. The motion was seconded by Mr. Nicholl and passed unanimously on voice vote.

3.0 PUBLIC HEARING – ZONE CHANGE – JOSEPH SCOTT

This item was cancelled at the request of the applicant.

4.0 PUBLIC HEARING – ZONE CHANGE – DAVID SWAN

4.1 Mr. Symes reviewed the request by David Swan to rezone approximately 0.20 acres of property located at 2044 E. Fort Union Blvd., from R-1-8 to Residential Office (RO). He explained that the current General Plan designation for this property is Mixed Use which includes the Mixed Use Zone, Neighborhood Commercial Zone and Residential Office Zone. Staff discussed the zoning designations with applicant noting the RO zone is the least intense commercial zone. Based on observations and the consistency with the General Plan, Staff recommended approval of a zone change from R-1-8 to RO, subject to the conditions listed in the May 16, 2007 Staff Report.

Mr. Symes stated that the site plan was reviewed based on the zone change to RO. He noted that parking is an issue for the properties in this area and explained several layouts and parking options the applicant could consider.

4.2 David Swan, applicant, stated that the current use of the property is a small home. He has discussed the parking issues with Staff and believes that the area west of the driveway and in front of the property would allow for the required parking.

4.3 Chair Bowen opened the public hearing.

4.4 No public comment was given.

- 4.5 Ms. Ryser asked if the Planning Commission would review the Site Plan for approval.

Mr. Symes answered affirmatively.

- 4.6 Ms. Rosevear asked if there was the possibility of shared parking with Cottonwood Insurance which is located next door.

Mr. Symes explained that there is no access to Mr. Swan's property from Cottonwood Insurance.

- 4.7 **MOTION:** Ms. Harwell moved to recommend approval of the zone change from R-1-8 to RO to the City Council. The motion was seconded by Ms. Ryser and passed unanimously on a voice vote.

5.0 **PUBLIC HEARING – CONDITIONAL USE - SHORT TERM RENTAL – HEIDI STAPEL**

- 5.1 Mr. Symes explained that the applicant is requesting a conditional use permit for the operation of a short-term rental at 8956 South Wasatch Blvd. He noted that Staff found no violation of renting without a permit. Staff recommended that this item be continued to a future meeting.

- 5.2 Dave Stapel, applicant, explained that he has made many improvements to this property since it was purchased. Mr. Stapel explained that he was told by a City employee that the Conditional Use ordinance was currently being written and to go ahead and rent it. He stated that he has followed all instructions from the City and believes the house is in compliance with all statutes. Mr. Stapel explained that this unit was rented last winter and he did not receive any complaints from the City or Sheriff's office. He believes that the complaints from the neighbors were unfounded and should not be included in the record.

- 5.3 Chair Bowen opened the public hearing.

- 5.4 Whitney Paulsen, stated that she worked for the applicant making reservations for the property. The renters were screened, the rules were explained and the house and yard was kept in good repair. She asked the Commission to approve the application.

- 5.5 Jeff Reader, stated that he maintained the property by doing regular checks of the property and taking care of any problems.

- 5.6 Chris Burke, said that he has pulled information on this rental from the website which states that 20 people are allowed. He feels this is a party house and that short-term rentals will devalue the property in the area and should not be allowed.

- 5.7 Donald Richardson, said there is loud noise from the location and agrees that property is devalued if short-term rental is allowed. He urged the Planning Commission to oppose the conditional use.
- 5.8 Diane Forsterburge, said the exterior of the home is mostly weeds which devalues the property in the area.
- 5.9 Kathy Eggert, is concerned with an occupancy of 20 people in the house when parking problems already exist, and believes those renting consume the resident's parking area on the street.
- 5.10 Teresa Ellis, stated that the renters do not comply with the 'quiet' hours from 10:00 p.m. to 7:00 a.m. She stated that she has complained to the City about noise at 3:00 a.m. and wants to see this application denied.
- 5.11 Dale Akin, stated that he agrees with comments made and is opposed to the conditional use being granted.
- 5.12 Chair Bowen closed the public hearing.
- 5.13 Mr. Haymore asked how many bedrooms were in the house at the time the applicant purchased the property.

Mr. Stapel said that there were seven bedrooms when he purchased the home and he has made a storage area into a bedroom so there are now eight bedrooms. He said the home is 6,000 square feet.

Chair Bowen stated that the MLS listing shows the house as 4,114 square feet.

Mr. Haymore added that the MLS listing states that there are three bedrooms on the first floor and two bedrooms in the basement.

Mr. Dolan had come to look at it and agreed with the occupancy of bedrooms. There was room to fit the guests in all 8 rooms comfortably.

- 5.14 Mr. Haymore asked the applicant if there are restrictive covenants on the subject property.
- Mr. Stapel said that he has never been made aware of any.
- 5.15 Mr. Haymore asked if anyone attending had information on the restrictive covenants.

Chris Burke stated that the CCRs are in place but do not address renting.

- 5.16 Mr. Nicholl asked Staff if any building permits had been issued on this property.

Mr. Symes said he would have to research the permits.

- 5.17 Chair Bowen asked how the property was purchased.

The home was purchased at auction and no permits were needed because he did cosmetic changes to the home.

Chair Bowen stated that another bedroom created.

Mr. Stapel stated that the room was carpeted and painted.

- 5.18 Mr. Haymore asked if the building codes require that a bedroom have closets and windows.

Mr. Symes noted that a window is required, and perhaps a closet would be required.

- 5.19 Mr. Smith stated that a closet is not required in the building code. The county records show it as a 5 bedroom home and there are 8 bedrooms. The planning department does not have any record of any additional building permits. The planning department would like to take a look at the permits to find out what has been done.

Mr. Stapel stated that when he bought the home the previous owner had improved the basement.

- 5.20 Mr. Nicholl explained that the MLS report referred to was not a sold listing. The listing had expired and the bank probably sold it at auction.

- 5.21 **MOTION:** Mr. Nicholl stated that several issues have been raised which need to be addressed and moved to continue this item in order to allow Staff time to respond to the concerns that have been raised.

Second: The motion was seconded by Mr. Haymore.

Discussion: Mr. Haymore noted that the following issues need to be addressed at the next meeting: compliance issues, including occupancy numbers of the rental unit and how they relate to the current ordinance; any building permits that have been issued on the subject property; and neighborhood complaints related to noise. Mr. Haymore said additionally that he believes this property is on Danish Way and not Wasatch Blvd.; that the applicant should have documentation to show the changes that have been made to the home; and that there is conflicting evidence being presented. He asked Staff to also look into any complaints associated with this property.

Chair Bowen asked if the applicant is in compliance. If they are not in compliance then the planning commission should not be hearing it.

- 5.22 **Restatement of Motion:** Mr. Nicholl moved to continue this item to June 6, 2007, in order to allow Staff to address the concerns that have been raised during this discussion. The motion was seconded by Mr. Haymore and passed unanimously on a voice vote.

6.0 **PLANNING DIRECTOR'S REPORT**

- 6.1 Further discussion was held on short-term rentals. Staff was directed to make sure all issues are researched and information provided to the so that the Planning Commission.

- 6.2 Mr. Symes pointed out that half of the calls to the Sheriff's office have been traffic related.

- 6.3 Mr. Nicholl also pointed out that the MLS report is not an official document and Staff should look at the County records for the property.

7.0 **ADJOURNMENT**

- 7.1 **MOTION:** Mr. Nicholl moved to adjourn. The motion was seconded by Mr. Rosevear and passed unanimously on a voice vote. The business meeting adjourned at _8:28_ p.m.

Approved: 7-18-07 sm